IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 29TH NOVEMBER 2006 / 8TH AGRAHAYANA 1928

Crl.Rev.Pet.No.985 of 1998(C)

S.T.NO.2996/1996 OF THE COURT OF THE JUDICIAL MAGISTRATE OF 1ST CLASS, PATTAMBI.

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PETITIONER/COMPLAINANT:-

LEELAVATHY AMMA, D/O.CHINNAMMU AMMA,
PUTHUMANE HOUSE, NADUVATTOM DESOM,
OTTAPALAM TALUK, PALAKKAD DISTRICT.

BY ADV. SMT.PREETHY KARUNAKARAN
SRI.C.RAMAN
SMT.M.R.MINI

RESPONDENTS/ACCUSED & STATE:-
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1. RAJAGOPALAN, S/O.DAMAYANTHI AMMA, MANGAD,
PERUMUDIYOOR AMSOM & DESOM,
P.O.PERUMUDIYOOR, OTTAPALAM TALUK, PALAKKAD DISTRICT.

2. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.Bali,C.J.

Crl.R.P.No.985 of 1998-C

Dated, this the 29th day of November, 2006

ORDER

V.K. Bali, CJ. (Oral):

The petitioner filed a complaint under Section 138 of the Negotiable Instruments Act, 1881. The same has been dismissed applying the principle laid down in **Raj** v. **Rajan** [1997 (1) KLT 302], wherein it was held that a notice containing a claim for amount more or less than what is mentioned in the cheque is illegal, defective and vague and hence the complaint based on such a notice is not maintainable. The observation made to the effect aforesaid was held to be *obiter dicta* by a Division Bench of this Court in **Kunjan Panicker** v. **Christudas** [1997 (2) KLT 539]. The contention raised by the learned counsel appears to be correct. The impugned order dated 31st July, 1997 passed by the Judicial Magistrate of First Class, Pattambi is set aside and the matter is remitted to the said Court for disposal in accordance with law.

V.K.Bali
Chief Justice

vku/-